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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PAUL ANTHONY ATWOOD,

Plaintiff,

v.

UNITED STATES OF AMERICA, et  
al.,

Defendants.

2:11-CV-1692 JCM (GWF)

**ORDER**

Presently before the court is the report and recommendation of Magistrate Judge George Foley, Jr (doc. #2) regarding plaintiff's motion to proceed in forma pauperis (doc. #1). Plaintiff has filed an objection to the report and recommendation. (Doc. #3).

Plaintiff's primary objection to the report and recommendation is its reliance on case law from 2002. Plaintiff contends that reliance on a case that preceded the current economic downturn does not sufficiently take into account the current financial difficulties of the population, including plaintiff, who has a long history of unemployment. This objection, however, does not take into account the legal rule for which the case at issue is cited for.

Magistrate Judge Foley cited *Fridman v. City of New York*, 195 F. Supp. 2d 534 (S.D.N.Y. 2002), aff'd, 52 Fed. Appx. 157 (2d Cir. 2002), for the proposition, "Determination of what constitutes 'unable to pay' or unable to 'give security therefor' and, therefore whether to allow a plaintiff to proceed in forma pauperis, is left to the discretion of the presiding judge, based on the

1 information submitted by the plaintiff or plaintiffs.” This remains the law of the land despite the  
2 economic downturn.

3 Upon review of the report and recommendation, this court agrees with the magistrate judge  
4 that the information submitted by the plaintiff indicates an ability to pay the court required filing fee.  
5 For example, despite his long history of unemployment, plaintiff indicates that he has \$37,000 in  
6 cash, checking, or savings accounts; \$19,000 in stocks; and \$46,000 in a retirement account, which  
7 he may access at age 59.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the report and  
10 recommendation of Magistrate Judge George Foley, Jr (doc. #2) regarding the plaintiff’s motion to  
11 proceed in forma pauperis (doc. #1) be, and the same hereby is, AFFIRMED in its entirety.

12 IT IS THEREFORE ORDERED that plaintiff’s motion to proceed in forma pauperis (doc.  
13 #1) be, and the same hereby is, DENIED.

14 DATED December 9, 2011.

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17 **UNITED STATES DISTRICT JUDGE**  
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